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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/787,196	02/27/2004	Kenichiro Ono	03500.013747.1	4571
5514 7590 06/22/2009 FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112				
EXAMINER				
WANG, JUE S				
ART UNIT		PAPER NUMBER		
2193				
MAIL DATE		DELIVERY MODE		
06/22/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/787,196

Applicant(s)

ONO, KENICHIRO

Examiner

JUE S. WANG

Art Unit

2193

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 April 2009.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 36 and 42 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 36 and 42 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/CDC)
4) ☐ Interview Summary (PTO-413)
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____
Paper No(s)/Mail Date _____

DETAILED ACTION

1. Claims 36 and 42 have been examined.
2. Claims 37 - 41 were cancelled in Amendment dated 4/3/2009.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 36 and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Metz et al. (US 5,666,293, hereinafter Metz).

5. As per claim 36, Metz teaches the invention as claimed, including an information processing apparatus operating on the basis of a program stored in program storage means, comprising:

receiving means for receiving broadcast waves containing an update program which executes control of said information processing apparatus in place of the stored program in the storage means (i.e., operating system upgrade files are carried by a broadcast channel, see column 4, lines 54-56, column 8, lines 12-29, column 9, lines 2-20, column 10, lines 6-12);

display control means for displaying a message image for providing a notification to a user on a screen (i.e., displaying the "Please Wait" message, see column 9, lines 33-36);

executing means for receiving an operating instruction to operate said information processing apparatus from an input unit and for operating said information processing apparatus

according to the received operating instruction (see column 4, lines 61-63, column 20, lines 12-31);

update means for updating the stored program with the update program (see Fig 9, column 35, line 5 - column 39, line 20); and

control means for controlling said executing means so as not to operate said information processing apparatus according to the operating instruction from the input unit while said update means is updating the program (see column 20, lines 12-31, column 38, lines 6-19; EN: the old operating system is halted during the upgrade and an operating system is required to interpret an input from user), and for controlling said display control means so as to display the message image on the screen, for notifying the user that the operating instruction from said input unit is not executed while said update means is updating the program (i.e., displaying the "Please Wait" message, see column 38, line 62 – column 39, line 11), .

6. As per claim 42, the limitations recited in this method claim are substantially similar to those recited in claim 36. Therefore, it is rejected using the same reasons as claim 36.

Response to Arguments

7. Rejection of claims under §102(b):

8. As per independent claims 36 and 42, Applicants arguments have been fully considered but are moot in light of the new grounds of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP §706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jue S. Wang whose telephone number is (571) 270-1655. The examiner can normally be reached on M-Th 7:30 am - 5:00pm (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lewis Bullock can be reached on 571-272-3759. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lewis A. Bullock, Jr./
Supervisory Patent Examiner, Art Unit 2193

Jue Wang
Examiner
Art Unit 2193